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Date: SEPTEMBER 28, 2005

To: EXAMINER NGUYEN, DAVID Q.
U.S. PATENT AND TRADEMARK OFFICE
Fax #: (571) 273-8300

From: FRANK C. NICHOLAS
Phone #: (847) 424-2521

Client/Matter No.: GP-301244 (2760/22)

of Pages: 21

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TRANSMITTAL FORM

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Attorney Docket No.	GP-301244 (2780/22)
Application Number	10/000,268
Filing Date	NOVEMBER 2, 2001
First Named Inventor	WILLIAM E MAZZARA
Group Art Unit	2681
Examiner	NGUYEN, DAVID Q.

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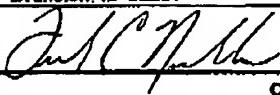
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Indep.	Minus		0	x \$100=	0	x \$200=	
First Presentation of Multiple Dep. Claim					+\$180=	—	+\$360=
				total add'l fee	\$ 0	total add'l fee	\$ 0

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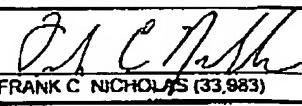
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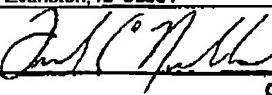
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Total	Minus		0	x \$25=	0
Indep.	Minus		0	x \$100=	0
First Presentation of Multiple Dep. Claim				+ \$180=	—
				total add'l fee	\$ 0
				or	
				Rate	Add'l Fee
				x \$50=	
				x \$200=	
				+ \$360=	
				total add'l fee	\$ 0

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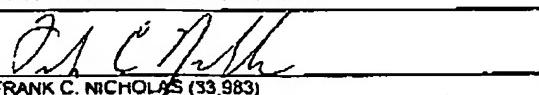
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FRANK C. NICHOLAS (33 983)
Name of Appellant, assignee or registered representative

Frank C. Nicholas
Signature

September 28, 2005
Date of Signature

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PATENT
Case No. GP-301244
(2760/22)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re patent application of:)
WILLIAM E. MAZZARA)
Serial No.: 10/000,268)
Filed: NOVEMBER 2, 2001)
For: METHOD OF PROVIDING A)
WIRELESS SERVICE)
CONNECTION FOR A MOBILE)
VEHICLE)
Examiner: NGUYEN, DAVID Q.
Group Art Unit: 2681
Conf. No.: 9150

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Dear Sir:

Please consider Appellant's appeal brief as follows.

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1. REAL PARTY IN INTEREST

The real party in interest is Assignee General Motors Corporation, a corporation having an office and a place of business at 300 Renaissance Center, Detroit, Michigan, 48263-3000 by virtue of an assignment executed by the inventor on November 1, 2001 and filed with the United States Patent and Trademark Office on November 2, 2001.

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2. RELATED APPEALS AND INTERFERENCES

Appellant and the undersigned attorneys are not aware of any appeals or any interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

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3. STATUS OF CLAIMS

Claims 1-6, 8-11, 13-16, and 18-20 stand rejected as unpatentable under 35 U.S.C. §103(a) by United States Patent No. 5,999,811 to Molne in view of United States Patent 5,983,097 to Kakinuma.

Claims 7, 12, and 17 stand rejected as unpatentable under 35 U.S.C. §103(a) by United States Patent No. 5,999,811 to Molne in view of United States Patent 5,983,097 to Kakinuma in further view of Lintulampi, United States Patent 6,377,804.

Claims 21-24 were subjected to a restriction requirement.

Claims 1-24 are the claims on appeal. *See, Appendix.*

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4. STATUS OF AMENDMENTS

All claim amendments have been entered.

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5. SUMMARY OF CLAIMED SUBJECT MATTER

In this summary of claimed subject matter, all citations are to the specification of United States Patent Application 10/000,268 filed on November 2, 2001. Further, all citations are illustrative only and support for the cited element may be found elsewhere in the specification.

The invention relates to a method of providing a wireless service connection for a mobile vehicle (p. 7, lines 15-16, p. 10, lines 19-21) including prioritizing a portion of a system access list based on a channel identifier in a first band (p. 13, 15-26) and selecting a secondary channel that is not in the system access list portion in response to a failed connection notification from channels in the system access list portion (p. 4, lines 7-11, p. 5, lines 5-10), wherein the connection notification comprises a rejection of a call origination and wherein the connection notification comprises a rejection of an attempt to register with a carrier (p. 15, lines 13-30). See also, FIGS. 2, 3.

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6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-6, 8-11, 13-16, and 18-20 stand rejected as unpatentable under 35 U.S.C. §103(a) by United States Patent No. 5,999,811 to Molne in view of United States Patent 5,983,097 to Kakinuma.

Claims 7, 12, and 17 stand rejected as unpatentable under 35 U.S.C. §103(a) by United States Patent No. 5,999,811 to Molne in view of United States Patent 5,983,097 to Kakinuma in further view of Lintulampi, United States Patent 6,377,804.

Claims 21-24 were subjected to a restriction requirement.

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7. ARGUMENTS

A. Claims 1-6, 8-11, 13-16, and 18-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mölne in view of Kakinuma

The §103(a) rejection of claims 1-6, 8-11, 13-16, and 18-20 is traversed.

In order to maintain this §103(a) rejection, each and every element of the claims must be taught or suggested in the reference in at least as great detail as claimed. At a minimum, Mölne in view of Kakinuma fails to teach or suggest "selecting a secondary channel that is not in the system access list portion in response to a failed connection notification from channels in the system access list portion" as claimed in claims 1, 11 and 16.

The claimed invention selects the secondary channel when there is a failed registration or when there is a failed call origination. In contrast, Kakinuma only discusses a rejected call *origination* and commands the mobile station (with a 'notification') to use the micro-cell system if available (rather than selecting a secondary channel) based on the rejected call origination. Additionally, Mölne, at most, teaches relating failed registrations, and not failed call originations so that Mölne has no teachings relating to selecting a secondary channel based on call originations. Thus, even if the combination of references were proper, the combination fails to teach or suggest each element of the claims.

The Examiner continues to mistake the teachings of Kakinuma. Rather than teaching "selecting a secondary channel that is not in the system access list portion in response to a failed connection notification from channels in the system access list portion," Kakinuma merely teaches that a failed connection "can be realized by defining the communication regulation information within a signal." See, column 5, lines 58-60. While Kakinuma additionally teaches that "a mobile station release signal is sent from the macro-cell base station to the mobile station, where the communication regulation information is set in the mobile station release signal" (column 6, lines 1-4), Kakinuma does not teach the claimed element. Since Mölne does not cure this deficiency of Kakinuma, the combination of the prior art cannot be read to have taught or suggested each and every claim limitation.

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As Mölne in view of Kakinuma does not teach or suggest each and every element of the claims, Appellant requests withdrawal of the rejections to claims 1, 11, and 16 and claims 2-6, 8-10, 13-15 and 18-20 depending from those claims.

B. Claims 7, 12, and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Mölne in view of Kakinuma in view of Lintulampi

The §103(a) rejection of claims 7, 12, and 17 is also traversed. Claims 7, 12, and 17 depend from claims 1, 11, and 16 respectively, and are therefore patentable over Mölne in view of Kakinuma in further view of Lintulampi for at least the reasons above.

The Examiner correctly does not allege that Lintulampi teaches or suggests each and every element of the claims, nor does the Examiner allege that Lintulampi cures the defects of Mölne and Kakinuma to teach or suggest the elements of claims 1, 11, or 16. Therefore, this §103(a) rejection cannot stand.

Withdrawal of the rejections to claims 7, 12, and 17 is requested.

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C. Claims 21-24 were subjected to an improper restriction requirement

The restriction requirement applicable to claims 21-24 is traversed.

A restriction requirement is only proper if the search and examination of the entire application can be made without serious burden. See, MPEP §803. This is true regardless of the status of the application as including independent or distinct invention (which Appellant neither admits nor denies).

Additionally, the Examiner fails to make a prima facie case that the claimed inventions are separate and distinct. The Examiner merely paraphrases the claims as his justification for the restriction. While Appellant does not necessarily agree that the Examiner has accurately paraphrased the claims, nor what the claims require, the Examiner is required to make a prima facie case – which he has not done.

The Examiner has failed to prove the restriction is appropriate, and is applying an improper legal standard to the restriction. The MPEP is clear that a restriction is improper if the search and examination of the entire application can be made without serious burden. The Examiner has failed to even allege (as he cannot) a restriction under the correct standard, and therefore, Appellants are entitled to examination of claims 21-24.

Withdrawal of the restriction requirement is requested, as well as consideration and allowance of claims 21-24.

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SUMMARY

The Examiner's rejections of claims 1-24 have been obviated by remarks herein supporting an allowance of pending claims 1-24 over the art of record. The Appellant respectfully submits that claims 1-24 herein fully satisfy the requirements of 35 U.S.C. §§ 102, 103 and 112. In view of the foregoing, favorable consideration and passage to issue of the present application is respectfully requested. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Dated: September 28, 2005

Respectfully submitted,
WILLIAM E. MAZZARA

GENERAL MOTORS CORPORATION
General Motors Legal Staff
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CLAIMS APPENDIX

1. A method of providing a wireless service connection for a mobile vehicle comprising:
 - prioritizing a portion of a system access list based on a channel identifier in a first band;
 - selecting a secondary channel that is not in the system access list portion in response to a failed connection notification from channels in the system access list portion, wherein the connection notification comprises a rejection of a call origination and wherein the connection notification comprises a rejection of an attempt to register with a carrier.
2. The method of claim 1 wherein the portion of the system access list corresponds to a geographical area in proximity to the channel identifier.
3. The method of claim 1 wherein the system access list is comprised of a plurality of records corresponding to a plurality of wireless carriers.
4. The method of claim 1 wherein the secondary channel corresponds to a secondary contract carrier.
5. The method of claim 1 wherein the secondary channel is in a second band.
6. The method of claim 1 wherein the secondary channel is a non-preferrred channel.
7. The method of claim 1 further comprising:
 - registering a mobile phone with a contract carrier.
8. The method of claim 1 further comprising:
 - originating a call request with a contract carrier.

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9. The method of claim 1 further comprising:
accessing a contract carrier using a cleared connection number in response to a failed connection notification on the secondary channel.
10. The method of claim 1 further comprising:
switching to an analog band in response to a failed connection notification on the secondary channel; and
accessing a channel in the analog band using a cleared connection number.
11. A computer usable medium including a program for providing a wireless service connection for a mobile phone comprising:
computer program code for prioritizing a portion of a system access list based on a channel identifier in a first band;
computer program code for receiving a failed connection notification on a primary channel of the system access list portion; and
computer program code for selecting a secondary channel of the system access list portion in response to the failed connection notification on the primary channel.
12. The computer usable medium of claim 11 further comprising:
computer program code for registering a mobile phone with a contract carrier.
13. The computer usable medium of claim 11 further comprising:
computer program code for originating a call request with a contract carrier.
14. The computer usable medium of claim 11 further comprising:
computer program code for accessing a contract carrier using a cleared connection number in response to a failed connection notification on the secondary channel.

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15. The computer usable medium of claim 11 further comprising:
computer program code for switching to an analog band in response to a failed connection notification on the secondary channel; and
computer program code for accessing a channel in the analog band using a cleared connection number.
16. A wireless service connection system for providing a wireless service connection for a mobile phone comprising:
means for prioritizing a portion of a system access list based on a channel identifier in a first band;
means for receiving a failed connection notification on a primary channel of the system access list portion; and
means for selecting a secondary channel of the system access list portion in response to the failed connection notification on the primary channel.
17. The system of claim 16 further comprising:
means for registering a mobile phone with a contract carrier.
18. The system of claim 16 further comprising:
means for originating a call request with a contract carrier.
19. The system of claim 16 further comprising:
means for accessing a contract carrier using a cleared connection number in response to a failed connection notification on the secondary channel.
20. The system of claim 16 further comprising:
means for switching to an analog band in response to a failed connection notification on the secondary channel; and
means for accessing a channel in the analog band using a cleared connection number.

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21. A method of providing a wireless service connection for a mobile vehicle, the method comprising:

prioritizing a portion of a system access list based on a channel identifier in a first band, the system access list including at least one preferred carrier and at least one non-preferred carrier;

determining a lowest priority system identifier based on the prioritized system access list;

determining a next lowest priority system identifier based on the prioritized system access list and determining whether the carrier associated with the next lowest priority system identifier is a preferred carrier; and

loading a connection number for a call center service in response to the carrier not being a preferred carrier.

22. A method of providing a wireless service connection for a mobile vehicle, the method comprising:

obtaining a carrier from a system identifier table, the system identifier table including a list of carriers, each carrier associated with a priority and each carrier associated with a band;

attempting to obtain a service connection using the band with the carrier associated with the highest priority; and

attempting to obtain a service connection with the band associated with the carrier associated with the next highest priority in response to a rejection from the higher priority carrier.

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23. A method of providing a wireless service connection for a mobile vehicle, the method comprising:

acquiring a wireless connection with a first wireless carrier obtained from a system identifier table, the system identifier table including a list of wireless carriers, each wireless carrier associated with at least one band;
initiating an acquisition attempt using a channel with the wireless carrier; and
initiating an acquisition attempt using a channel with a second wireless carrier obtained from the system identifier table in response to a rejection from the first wireless carrier.

24. A method of providing a wireless service connection for a mobile vehicle, the method comprising:

loading a connection number for a call center service;
initiating a registration attempt over a first wireless channel using a first band; and
attempting a registration attempt over a second wireless channel using a second band in response to a failed registration attempt.

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Evidence Appendix

None

Related Proceedings Appendix

None.